

STATE OF MICHIGAN
DEPARTMENT OF LABOR & ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

In the matter of

XXXXX

Petitioner

File No. 87308-001

v

Aetna Life Insurance Company
Respondent

Issued and entered
this 28th day of February 2008
by Ken Ross
Acting Commissioner

ORDER

I
PROCEDURAL BACKGROUND

On January 22, 2008, XXXXX as authorized representative for XXXXX (Petitioner) filed a request for external review with the Commissioner of Financial and Insurance Services under the Patient's Right to Independent Review Act, MCL 550.1901 *et seq.* The Commissioner reviewed the information and accepted the request on January 28, 2008.

The Commissioner notified Aetna Life Insurance Company of the external review and requested the information used in making its adverse determination. The company provided information on January 24 and 28, 2008.

The Petitioner has health care coverage under a group policy underwritten by Aetna. The issue here can be decided by an analysis of that policy. The Commissioner reviews contractual issues pursuant to MCL 550.1911(7). This matter does not require a medical opinion from an independent review organization.

II
FACTUAL BACKGROUND

The Petitioner had gastric bypass surgery on October 22, 2007. Claims for the surgery and

related services were submitted and Aetna denied coverage. After the Petitioner appealed through the internal grievance process, Aetna maintained its denial citing the exclusion in the certificate for gastric bypass surgery. The Petitioner was notified of Aetna's final adverse determination on January 8, 2008.

III ISSUE

Is Aetna correct in denying coverage for the Petitioner's gastric bypass surgery?

IV ANALYSIS

Petitioner's Argument

The Petitioner says she has been treated for 25 years trying numerous diets and medications to achieve weight loss but nothing has been successful. She says it was due to her health and not cosmetic reasons that bariatric surgery was needed.

The Petitioner's authorized representation says when he signed up for his insurance in August 2007 he was told that gastric bypass surgery would be covered under his plan. The Petitioner's authorized representative believes he was deliberately misled.

The Petitioner argues the gastric bypass surgery was medically necessary and believes that Aetna should cover the surgery.

Aetna Life Insurance Company's Argument

Aetna says that it denied coverage because under the Petitioner's plan gastric bypass surgery benefits are excluded and not covered. The policy states under Medical Plan Exclusions on page 46:

Not every service or supply is covered by the plan, even if prescribed, recommended, or approved by your physician. . . . The plan covers only those services and supplies that are medically necessary and included in the What The Plan Covers section. Charges made for the following are not covered:

* * *

Weight: Any treatment, drug service or supply intended to decrease or increase body weight, control weight or treat obesity, including morbid obesity, regardless of the existence of comorbid conditions. . . including but

not limited to:

- Liposuction, banding, gastric stapling, gastric by-pass and other forms of bariatric surgery; surgical procedures, medical treatments, weight control/loss programs and other services and supplies that are primarily intended to treat, or are related to the treatment of obesity, including morbid obesity.

Aetna asserts that the Petitioner's gastric bypass surgery was properly denied because it is specifically excluded in the Petitioner's plan.

Commissioner's Review

The Commissioner has considered the arguments of both parties and reviewed the provisions of the Petitioner's policy. The Commissioner understands the value and importance of this surgery to the Petitioner. Nevertheless, in deciding this case, the Commissioner is bound by the terms and conditions of the policy. The Petitioner's policy explicitly excludes coverage for the type of surgery Petitioner seeks. Therefore, the Commissioner finds Aetna processed the Petitioner's request for coverage correctly under the terms of the Petitioner's policy.

V ORDER

The Commissioner upholds Aetna Life Insurance Company's adverse determination of January 8, 2008

This is a final decision of an administrative agency. Under MCL 550.1915, any person aggrieved by this Order may seek judicial review no later than sixty days from the date of this Order in the Circuit Court for the county where the covered person resides or in the Circuit Court of Ingham County. A copy of the petition for judicial review should be sent to the Commissioner of the Office of Financial and Insurance Services, Health Plans Division, Post Office Box 30220, Lansing, MI 48909-7720.